



Town of Merrimack, New Hampshire

Community Development Department

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Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

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RESULTS OF MERRIMACK ZONING BOARD OF ADJUSTMENT TUESDAY, JUNE 24, 2020

Board members present: Richard Conescu, Kathleen Stroud, Patrick Dwyer (joined virtual meeting at 7:04 p.m.), and Alternates Ben Niles and Drew Duffy

Board members absent: Rod Buckley, Lynn Christensen and Alternate Leonard Worster

Staff present: Robert Price, Planning & Zoning Administrator

1. Call to Order

Richard Conescu called the meeting to order at 7:00 p.m.

2. Roll Call

Richard Conescu read the preamble, and then read the procedures and processes for the virtual meeting.

Richard Conescu appointed Ben Niles to sit for Rod Buckley and Drew Duffy to sit for Lynn Christensen.

3. **RCL Realty, LLC (petitioner/owner)** – Variances under Section 3.02 of the Zoning Ordinance to permit a lot (following a lot line adjustment) with 42,996 square feet of lot area whereas 80,000 square feet is required, and 186.77 feet of depth whereas 200 feet is required. The parcel is located at 21 Elizabeth Drive in the R-2 (Residential) District. Tax Map 3A, Lot 010. Case #ZBA 2020-10.
4. **RCL Realty, LLC (petitioner/owner)** – Variances under Section 3.02 of the Zoning Ordinance to permit a lot (following a lot line adjustment) with 41,268 square feet of lot area whereas 80,000 square feet is required, 182.89 feet of depth whereas 200 feet is required, and 50 feet of frontage whereas 200 feet is required. The parcel is located at 15 Elizabeth Drive in the R-2 (Residential) District. Tax Map 3A, Lot 013. Case # ZBA 2020-11.
5. **RCL Realty, LLC (petitioner/owner)** – Variances under Section 3.02 of the Zoning Ordinance to permit a lot (following a lot line adjustment) with 50,174 square feet of lot area whereas 80,000 square feet is required, 155.68 feet of depth whereas 200 feet is required, and 59.19 feet of frontage whereas 200 feet is required. The parcel is located at 11 Elizabeth Drive in the R-2 (Residential) District. Tax Map 3A, Lot 014. Case # ZBA 2020-12.
6. **RCL Realty, LLC (petitioner/owner)** – Variances under Section 3.02 of the Zoning Ordinance to permit a lot (following a lot line adjustment) with 49,524 square feet of lot area whereas 80,000 square feet is required, and 25 feet of frontage whereas 200 feet is required. The

parcel is located at 4 Squires Drive in the R-2 (Residential) District. Tax Map 3A, Lot 015. Case # ZBA 2020-13.

7. **RCL Realty, LLC (petitioner/owner)** – Variances under Section 3.02 of the Zoning Ordinance to permit a lot (following a lot line adjustment) with 48,258 square feet of lot area whereas 100,000 square feet is required, and 185 feet of depth whereas 300 feet is required. The parcel is located at 14 Elizabeth Drive in the R-1 (Residential, by soils) District. Tax Map 3A, Lot 025. Case # ZBA 2020-14.
8. **RCL Realty, LLC (petitioner/owner)** – Variances under Section 3.02 of the Zoning Ordinance to permit a lot (following a lot line adjustment) with 61,913 square feet of lot area whereas 100,000 square feet is required, and 185 feet of depth whereas 300 feet is required. The parcel is located at 18 Elizabeth Drive in the R-1 (Residential, by soils) District. Tax Map 3A, Lot 026. Case # ZBA 2020-15.
9. **RCL Realty, LLC (petitioner/owner)** – Appeal of Administrative Decision that determined pre-existing nonconforming lots of record are required to conform to current zoning requirements upon the modification of the lot following a lot line adjustment even though such adjustments would result in each lot becoming less nonconforming than presently constituted. The parcels are located at Elizabeth Drive, Charles Road and Squires Drive in the R-1 (Residential by soils) and R-2 (Residential) Districts. Tax Map 3A, Lots 010, 013, 014, 015, 025, and 026. Case # ZBA 2020-16.

Robert Price explained that Items 3 through 9 could not be heard due to a legal notice defect. Each of these items will be re-noticed for the July meeting.

10. **Governors Hill Corp. (petitioner) and Richard & Marilyn Brown (owners)** – Variances under Section 3.02 of the Zoning Ordinance to permit a lot (following a lot line adjustment) with 23,885 square feet of lot area whereas 100,000 square feet is required, 150 feet of depth whereas 300 feet is required, and 150 feet of frontage whereas 250 feet is required. The parcel is located at 31 Constance Street in the R-1 (Residential, by soils) District. Tax Map 6D, Lot 137. Case # ZBA 2020-17.

Petitioner was represented by: Greg Michael, Bernstein, Shur, Sawyer & Nelson, P.A. and Matt Peterson, Keach-Nordstrom Associates, Inc.

There was no public comment.

The Board voted 5-0-0, on a roll call vote, to grant the Variances, with conditions, on a motion made by Patrick Dwyer and seconded by Drew Duffy.

11. **Governors Hill Corp. (petitioner/owner)** – Variances under Section 3.02 of the Zoning Ordinance to permit a lot (following a lot line adjustment) with 26,689 square feet of lot area whereas 100,000 square feet is required, 150 feet of depth whereas 300 feet is required, and 150 feet of frontage whereas 250 feet is required. The parcel is located at 33 Constance Street in the R-1 (Residential, by soils) District. Tax Map 6D, Lot 136. Case # ZBA 2020-18.

Petitioner was represented by: Greg Michael, Bernstein, Shur, Sawyer & Nelson, P.A. and Matt Peterson, Keach-Nordstrom Associates, Inc.

There was no public comment.

The Board voted 5-0-0, on a roll call vote, to grant the Variances, with conditions, on a motion made by Patrick Dwyer and seconded by Kathy Stroud.

- 12. Governors Hill Corp. (petitioner) and Richard & Marilyn Brown & Governors Hill Corp (owners)** - Appeal of Administrative Decision that determined pre-existing nonconforming lots of record are required to conform to current zoning requirements upon the modification of the lot following a lot line adjustment even though such adjustments would result in no change to the lots area, depth, or frontage. The parcels are located at 31 & 33 Constance Street in the R-1 (Residential, by soils) District. Tax Map 6D, Lots 137 and 136. Case # ZBA 2020-19.

At the petitioner's request, the Board voted 5-0-0, on a roll call vote, to continue this item until July 29, 2020, pending completion of the 30-day appeal period for the granting of the variances for ZBA Cases #2020-18 & #2020-19 with no appeals being filed, on a motion made by Patrick Dwyer and seconded by Kathy Stroud.

- 13. Herrick Flats, LLC (petitioner) and Sanco Realty Trust (owner)** – Special Exception under Section 2.02.3(C)(1) of the Zoning Ordinance to allow for a residential use in the C-2 (General Commercial) District. The parcel is located at 106 Herrick Street in the C-2 (General Commercial), I-1 (Industrial), and Aquifer Conservation Districts. Tax Map 3D-2, Lot 021. Case # ZBA 2020-20.

Petitioner was represented by: Kyle Worth, Herrick Flats, LLC, and Jeff Kevan, TF Moran.

Public Comment was received from Nathaniel Durgin, owner of Map 3D-2, Lot 020-1 (currently not addressed by the Fire Department), Map 3D-1, Lot 002-1 (currently not addressed by the Fire Department), and 111 Herrick Street; and Amy Annable, 64 Sentry Way.

A motion to grant the Special Exception made by Kathy Stroud and seconded by Patrick Dwyer failed after the Board voted 2-1-2, on a roll call vote. Ben Niles voted in opposition, Drew Duffy and Patrick Dwyer abstained.

The Board voted 3-2-0, on a roll call vote, to deny the Special Exception because the petitioner failed to satisfactorily demonstrate that the use as developed would not adversely affect the neighborhood and that there would be no nuisance or serious hazard to vehicles or pedestrians, on a motion made by Ben Niles and seconded by Patrick Dwyer. Kathy Stroud and Rich Conescu voted in opposition.

- 14. Herrick Flats, LLC (petitioner) and Sanco Realty Trust (owner)** – Variance under Section 3.02 of the Zoning Ordinance to permit a density of 44 multi-family residential units on a lot containing 65,992 square feet in the C-2 (General Commercial) District whereas 1 unit per 40,000 square feet is allowed. The parcel is located at 106 Herrick Street in the C-2 (General Commercial) and I-1 (Industrial), and Aquifer Conservation Districts. Tax Map 3D-2, Lot 021. Case # ZBA 2020-21.

Withdrawn by petitioner.

15. Discussion/possible action regarding other items of concern

None.

16. Approval of Minutes – June 2, 2020

The Board voted 5-0-0, on a roll call vote, to approve the minutes of June 2, 2020 as submitted, on a motion made by Drew Duffy and seconded by Patrick Dwyer.

17. Adjourn

The Board voted 4-0-1, on a roll call vote, to adjourn at 8:24 p.m. on a motion made by Drew Duffy and seconded by Ben Niles. Kathy Stroud abstained.